

# ***Certification of Consistency***

**Certification ID: C20181**

## **Step 1 - Agency Profile**

**A. GOVERNMENT AGENCY:**

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**State Agency**

☐

**Local Agency**

Government Agency: Department of Water Resources

Primary Contact: Bonnie Irving

Address: 3500 Industrial Blvd #131

City, State, Zip: West Sacramento, CA 95691

Telephone/Fax: 916-376-9748 /

E-mail Address: allegra.bukojemsky@icf.com

**B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:**

☐

**Will Carry Out**

☒

**Will Approve**

☐

**Will Fund**

## Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☐ Plan ☐ Program ☒ Project

Title: Yolo Flyway Farms Restoration

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: Reynier Fund, LLC  
Address: 34284 Concoran Hill Lane  
City, State, Zip: Davis, CA 95616

C. **AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL**, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☐ YES ☒ NO ☐ N/A

**D. COVERED ACTION SUMMARY:** (Project Description from approved CEQA document may be used here)

The Yolo Flyway Farms Restoration Project is located in the Sacramento River Delta at the extreme southern end of the Yolo Bypass near Cache Slough. The project site includes a 359-acre parcel and an 80-acre parcel along the historic wetland-upland edge of the Yolo Basin on the western edge of the Sacramento–San Joaquin Delta. The site often receives significant flood flows during the winter-spring rainy season (roughly November–April) that can submerge the property up to 15 feet or more. Prior to the introduction of agricultural practices in the early 1900s, the site likely contained a matrix of grasslands, seasonal wetlands, perennial open water, and tidal marsh. The topography of the site is primarily flat, with an almost imperceptible slope descending from the northwest to the southeast. Approximately one quarter of the site is at elevations above modern high tide (+6.5 feet NAVD88 ), with elevations ranging between +6.5 and +9 feet NAVD88. Approximately three-quarters of the site topography is within intertidal elevation ranges of +2 to +6.5 ft. NAVD88. Many areas within the site are currently pastures that have been graded to drain to agricultural drainage ditches. There is limited infrastructure on the property to support cattle ranching and water management operations and consists largely of unpaved roads, culverts and cattle fencing. Low internal berms for managing irrigation water are located throughout the site. Irrigation water is supplied to the site via a pump located in the northwest corner of the site. All irrigation water drains to the southeast corner of the site through a network of the aforementioned culverts. The project site is comprised entirely of agricultural lands and is designated in the Yolo County General Plan as Agricultural Preserve. The project site serves as a flood bypass, with winter and spring floods occurring on average in 2 of every 3 years.

The restoration design in its entirety would include modifications, either physical or hydrologic, to approximately 381 acres of the 439-acre site. Areas adjacent to the site that are outside of the project footprint would remain in their current condition and would continue to support agricultural operations following project implementation. Project components include the following activities.

1. Tidal Marsh Restoration: Restoring 278 acres of intertidal and associated subtidal marsh habitat, including approximately 11.5 acres of new tidal channels and swales.
2. Habitat Enhancement: Enhancing approximately 3 acres of existing riparian habitat and 20 acres of existing open water habitat (Toe Drain).
3. Transitional Uplands: Enhancing approximately 136 acres of farmed uplands, including an 80 acre soil stockpile located on agricultural land located northwest of the project site.
4. Water quality enhancement and minimizing the introduction of agricultural contaminants: Improving irrigation and drainage on the project site by relocating, modifying, or completely removing several water control structures and irrigation and drainage ditches. The project design seeks to maximize residency time diversity, and associated foodweb production, by capturing and slowly draining water on the existing landscape. This water will come from daily tidal exchange or from seasonal inundation during flood events in the Yolo Bypass. Water will be partially impounded behind existing berms that are part of the irrigated pasture landscape that now exists on the project site. Existing berms would be graded in certain spots to allow for water and biota to flow out into surrounding tidal marsh plain and channels, and will help reduce the potential for fish stranding. In order to facilitate outflow from the site, swales will be cut to drain the deepest portions of the site. Depth of the swales will vary in order to vary the hydrology within the restoration area.

**E. STATUS IN THE CEQA PROCESS:** NOD has been filed

**F. STATE CLEARINGHOUSE NUMBER:** 2011032001  
(if applicable)

**G. COVERED ACTION ESTIMATED TIME LINE:**

ANTICIPATED START DATE: (If available) 5/1/2018

ANTICIPATED END DATE: (If available) 9/30/2018

**H. COVERED ACTION TOTAL ESTIMATED PROJECT COST:** \$521,000.00

**I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:**

**J. SUPPORTING DOCUMENTS:** [Yolo County Recorder Invoices NOD Filing & Processing.pdf](#), [Yolo Notice of Determination.pdf](#)

# Step 3 - Consistency with the Delta Plan

## DELTA PLAN CHAPTER 2

### G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

#### Specific requirements of this regulatory policy:

##### Mitigation Measures (23 CCR SECTION 5002 (b), (2))

- a. The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

#### Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: Attached are the mitigation measures from the Lower Yolo CEQA document prepared by Metropolitan Water District in 2011. The Lower Yolo CEQA analysis also covered the Yolo Flyway Farms project area.  
[YFF mitigation measures.pdf](#)

##### Best Available Science (23 CCR SECTION 5002 (b), (3))

- b. The covered action documents use of best available science as relevant to the purpose and nature of the project.

#### Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: [YFF design.pdf](#)

##### Adaptive Management (23 CCR SECTION 5002 (b), (4))

- c. The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

#### Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: The Yolo Flyway adaptive management plan is attached. [Yolo Flyway Farms AMMP.pdf](#)

## DELTA PLAN CHAPTER 3

### [WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

#### Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve water that is exported from, transferred through, or used in the Delta

**WR P2 / 23 CCR SECTION 5004 - Transparency in Water Contracting**

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve entering into or amending water supply or water transfer contracts subject to DWR Guideline 03-09 and/or 03-10 (each dated July 3, 2003), (Appendix 2A).

**DELTA PLAN CHAPTER 4**

**Conservation Measure: (23 CCR SECTION 5002 (c))**

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES ☒ NO ☐ N/A

Answer Justification: Consistency with sections 5005 through 5009 is provided below.

**ER P1 / 23 CCR SECTION 5005 - Delta Flow Objectives**

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not significantly affect flow in the Delta.

**ER P2 / 23 CCR SECTION 5006 - Restore Habitats at Appropriate Elevations**

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: The existing elevations at the site are largely intertidal and require little to no grading. [YFF design.pdf](#)

**ER P3 / 23 CCR SECTION 5007 - Protect Opportunities to Restore Habitat**

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: The project is a restoration project within the priority areas shown in Appendix 5.

**ER P4 / 23 CCR SECTION 5008 - Expand Floodplains and Riparian Habitats in Levee Projects**

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not construct new levees or substantially rehabilitate or reconstruct existing levees.

**ER P5 / 23 CCR SECTION 5009 - Avoid Introductions of and Habitat for Invasive Nonnative Species**

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: The project contains monitoring and maintenance objective to minimize colonization by invasive species.

## DELTA PLAN CHAPTER 5

### [DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve new residential, commercial, or industrial development.;

### [DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: An open space agreement was developed in conjunction with Yolo County and approved by the Yolo County Board of Supervisors to address the conversion of agricultural land to natural habitat. [Williamson Act Open Space Agr..pdf](#)

## DELTA PLAN CHAPTER 7

### [RR P1](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve discretionary State investments in Delta flood risk management including levee operations, maintenance, and improvements.

### [RR P2](#) - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve new residential development of five or more parcels.

### [RR P3](#) - Protect Floodways

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: The attached document demonstrates the effect the project is anticipated to have on flood conveyance in the Yolo Bypass, a designated floodway. A CVFPB Title 23 encroachment permit has been applied for and approval will be scheduled for a board meeting subsequent to issuance of the USACE 404 permit, which is anticipated to occur in February 2018. [C. 14-1009 Yolo Flyway Farms Flood TM 102014.pdf](#)

### [RR P4](#) - Floodplain Protection

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: The project does not affect the floodplain capacity of the Yolo Bypass.